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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,446	01/24/2001	Jules S. Cohen	MSFT-0244/148481.1	2394

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WOODCOCK WASHBURN KURTZ  
MACKIEWICZ & NORRIS LLP  
ATTENTION: STEVEN J. ROCCI, ESQ.  
ONE LIBERTY PLACE, 46TH FLOOR  
PHILADELPHIA, PA 19103

EXAMINER

KENNEDY, LESA M

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 04/02/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/768,446

Applicant(s)

COHEN ET AL.

Examiner

Lesa Kennedy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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DETAILED ACTION

*Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7 and 31-32, drawn to a system for controlling the migration of data using an adjustable value, classified in class 709, subclass 235 – congestion avoiding.
- II. Claims 8-14 and 26-30, drawn to a system for transferring data from a client device to a central storage location based on a preset/stored value, classified in class 709, subclass 228 – session/connection parameter setting.
- III. Claims 15-25 drawn to a system for selecting users for deployment of a new software feature, classified in class 709, subclass 229 – network resource access controlling.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as because it is directed to data migration and can be used in systems which do not use a hashing function. See MPEP § 806.05(d).

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

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separately usable. In the instant case, invention I has separate utility such as because it is directed towards data migration and can be used in systems that do not deploy software features. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as because it is directed towards data migration from client to server and can be used in systems that do not deploy software features. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and different searches are required for each group, restriction for examination purposes as indicated is proper. The search for the invention of Group I would require considering class 370, subclass 229 (Data flow congestion prevention or control), while the searches for Groups II and III would not. The search for the invention of Group II would require considering class 707, subclass 1 (Database or file accessing), while the search for Group III would not. The search for the invention of Group III would require considering class 717, subclass 172 (Including the distribution of software), while the searches for Groups I and II would not.

Applicant is advised that the reply to this requirement to be complete **must include an election** of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

*Conclusion*

A shortened statutory period for response to this action is set to expire **one month (not less than 30 days)** from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lesa Kennedy whose telephone number is (703) 305-8865. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Lesa Kennedy  
Art Unit 2151

Andrew Caldwell  
Andrew Caldwell